

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:06-cr-177

Also Civil Case No. 3:09-cv-217

-vs-

:

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

CHRISTOPHER TODD ROSE,

Defendant.

ORDER DISMISSING REMAINING CLAIMS

This case is before the Court on Defendant's Motion to Vacate, Set Aside, or Correct a Sentence, pursuant to 28 U.S.C. §2255 (Doc. No. 451). The case came on for evidentiary hearing on Petitioner's remaining claim or claims of ineffective assistance of trial counsel. Present in court with counsel, Defendant withdrew all remaining claims with prejudice and consented, through counsel and under 28 U.S.C. § 636(c)¹, to entry of judgment on those claims by the Magistrate Judge. The Court advised Defendant that withdrawal with prejudice meant that these claims could not be re-filed in any forum. Upon inquiry, the Court determined that Defendant made the decision to withdraw the remaining claims knowingly, intelligently, and voluntarily.

Accordingly, all remaining claims in defendant's § 2255 Motion not yet adjudicated by the Court are dismissed with prejudice. The Clerk will enter final judgment in this matter.

February 25, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge

¹The General Order of Assignment and Reference for the Dayton location of court allows the Magistrate Judge to exercise jurisdiction under 28 U.S.C. § 636(c) in cases otherwise referred upon unanimous consent of the parties which in this instance was oral and on the record in open court.